



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,084	05/31/2001	Jurgen Niessen	P01,0182	9132

26574 7590 07/07/2003

SCHIFF HARDIN & WAITE  
6600 SEARS TOWER  
233 S WACKER DR  
CHICAGO, IL 60606-6473

EXAMINER
----------

NGUYEN, TAM V

ART UNIT	PAPER NUMBER
----------	--------------

2172

DATE MAILED: 07/07/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/857,084

Applicant(s)

NIESSEN ET AL.

Examiner

Tam V Nguyen

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 2172

### DETAILED ACTION

1. Claims 1-8 are pending in is action. Claims 1-8 are presented for examination.

This office action is in response to the filing dated 5/31/01.

#### Information Disclosure Statement

2. The reference cited in the IDS, PTO-1449, Paper No. 3, have been considered.

#### *Specification*

3. The abstract of the disclosure is objected to because the abstract should be in narrative form and generally limited to a single paragraph and please delete the phrase "Figure 1". Correction is required. See MPEP § 608.01(b).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akatsu et al. (US 6496862B1) in view of Cassidy et al. (US 6249883B1).

With respect to claim 1, Akatsu discloses A database of the computer system store, (col. 6, lines 45), for system function monitored for availability, (col. 18, lines 45-53), with respective information which describes the conditions under which the

Art Unit: 2172

availability of a system function is to be assessed as existing or no longer existing, (col. 19, lines 24-40).

Akatsu discloses the remote monitoring and control acts are depicted in FIG. 23. The acts are performed by the home gateway 504, and can be performed more particularly by the SNMP manager and agent, or web-server component of the home gateway 504. However, Akatsu does not explicitly teach ***the aforementioned information is used, when a change in the state of a component of the computer system has taken place or is intended, to assess whether this results or would result in a change in terms of the availability of the aforementioned system function.*** Cassidy teaches a computer network of the present invention is any computer network having a distributed directory and a directory monitor service that predicts failure of the computer network according to aspects of the present invention. For example, computer network 100, of FIG. 1, includes equipment at three sites (e.g. building, geographic areas, or regions separated by distance or physical boundaries). Each site includes a sub network, namely, 104, 105 and 106 respectively, coupled by signals that cross site boundaries, (col. 4, lines 5-14 and col. 5, lines 23-41) as step of ***the aforementioned information is used, when a change in the state of a component of the computer system has taken place or is intended, to assess whether this results or would result in a change in terms of the availability of the aforementioned system function.*** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akatsu by including the aforementioned information is used, when a change in the state of a component of

Art Unit: 2172

the computer system has taken place or is intended, to assess whether this results or would result in a change in terms of the availability of the aforementioned system function as taught by Cassidy. By doing so, the performance of the software as whole can be optimized, (col. 1, lines 18-19).

With respect to claims 2 and 4, a system function for monitoring for availability is prescribed by marking in a database of the system the component mappers of the components, which contribute to the availability of the aforementioned system function, (col. 19, lines 24-39).

Akatsu discloses the remote monitoring and control acts are depicted in FIG. 23. The acts are performed by the home gateway 504, and can be performed more particularly by the SNMP manger and agent, or web-server component of the home gateway 504. However, Akatsu does not explicitly teach ***the component mappers marked as such are used, when a change in the state of a component has taken place or is intended, to assess whether this results or would result in a change in the availability of the aforementioned system function.*** Cassidy teaches a computer network of the present invention is any computer network having a distributed directory and a directory monitor service that predicts failure of the computer network according to aspects of the present invention. For example, computer network 100, of FIG. 1, includes equipment at three sites (e.g. building, geographic areas, or regions separated by distance or physical boundaries). Each site includes a subnetwork, namely, 104, 105 and 106 respectively, coupled by signals that cross site boundaries, (col. 4, lines 5-

Art Unit: 2172

14 and col. 5, lines 23-41) as step of ***the component mappers marked as such are used, when a change in the state of a component has taken place or is intended, to assess whether this results or would result in a change in the availability of the aforementioned system function.*** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akatsu by including the component mappers marked as such are used, when a change in the state of a component has taken place or is intended, to assess whether this results or would result in a change in the availability of the aforementioned system function as taught by Cassidy. By doing so, the performance of the software as whole can be optimized, (col. 1, lines 18-19).

With respect to claim 3, Akatsu discloses the respective current (functional) state of a (system) component in the database, (col. 20, lines 30-37), in addition, the database records, for each system component, whether said component contributes to the availability of a system function monitored for availability, and, if so, for which system function or system functions, (col. 19, lines 24-40).

Akatsu discloses the remote monitoring and control acts are depicted in FIG. 23. The acts are performed by the home gateway 504, and can be performed more particularly by the SNMP manger and agent, or web-server component of the home gateway 504. However, Akatsu does not explicitly teach ***when a change in the state of a component of the system has taken place or is intended, the data stored in the database for other system components are used to assess whether the***

Art Unit: 2172

**availability for a system function monitored for availability changes or would change as a result of the aforementioned change.** Cassidy teaches a computer network of the present invention is any computer network having a distributed directory and a directory monitor service that predicts failure of the computer network according to aspects of the present invention. For example, computer network 100, of FIG. 1, includes equipment at three sites (e.g. building, geographic areas, or regions separated by distance or physical boundaries). Each site includes a subnetwork, namely, 104, 105 and 106 respectively, coupled by signals that cross site boundaries, (col. 4, lines 5-14 and col. 5, lines 23-41) as step of **when a change in the state of a component of the system has taken place or is intended, the data stored in the database for other system components are used to assess whether the availability for a system function monitored for availability changes or would change as a result of the aforementioned change.** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akatsu by including when a change in the state of a component of the system has taken place or is intended, the data stored in the database for other system components are used to assess whether the availability for a system function monitored for availability changes or would change as a result of the aforementioned change as taught by Cassidy. By doing so, the performance of the software as whole can be optimized; (col. 1, lines 18-19).

As to claims 5 and 7, Akatsu discloses characterized in that the database stores, for each system function regarded as being relevant to availability, information which

Art Unit: 2172

describes the conditions under which the availability of a system function is to be assessed as existing or no longer existing, (col. 19, line 24-39).

With respect to claim 6, the database indicates for each data map for a component whether the mapped component contributes to the availability of a system function, and, if so, to which system function or system functions, (col. 19, lines 24-39).

Akatsu discloses the remote monitoring and control acts are depicted in FIG. 23. The acts are performed by the home gateway 504, and can be performed more particularly by the SNMP manager and agent, or web-server component of the home gateway 504. However, Akatsu does not explicitly teach ***an availability monitoring component in a computer system, which, when a change in the state of a component of the system has taken place or is intended, uses information stored in the database to assess whether this changes or would change the availability of a system function, where, for this purpose.*** Cassidy teaches a computer network of the present invention is any computer network having a distributed directory and a directory monitor service that predicts failure of the computer network according to aspects of the present invention. For example, computer network 100, of FIG. 1, includes equipment at three sites (e.g. building, geographic areas, or regions separated by distance or physical boundaries). Each site includes a subnetwork, namely, 104, 105 and 106 respectively, coupled by signals that cross site boundaries, (col. 4, lines 5-14 and col. 5, lines 23-41) as step of ***an availability monitoring component in a computer system, which, when a change in the state of a component of the***



Art Unit: 2172

***system has taken place or is intended, uses information stored in the database to assess whether this changes or would change the availability of a system function, where, for this purpose.*** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akatsu by including an availability monitoring component in a computer system, which, when a change in the state of a component of the system has taken place or is intended, uses information stored in the database to assess whether this changes or would change the availability of a system function, where, for this purpose as taught by Cassidy. By doing so, the performance of the software as whole can be optimized, (col. 1, lines 18-19).

With respect to claim 8, Akatsu discloses a stipulation means which can stipulate for the system which system function is to be monitored for availability, a component map which, for a component, records in the database whether said component is at all necessary for a system function monitored for availability and for which system function it is necessary, and which also records for the component the respective (functional) state thereof, (col. 19, lines 24-50 and col. 20, lines 30-38).

Akatsu discloses the remote monitoring and control acts are depicted in FIG. 23. The acts are performed by the home gateway 504, and can be performed more particularly by the SNMP manger and agent, or web-server component of the home gateway 504. However, Akatsu does not explicitly teach ***an assessment means which uses the aforementioned records made in a component map to assess whether a change in the state of a component which has taken place or is intended has***

Art Unit: 2172

***resulted or would result in a change in the availability of the aforementioned system function.*** Cassidy teaches a computer network of the present invention is any computer network having a distributed directory and a directory monitor service that predicts failure of the computer network according to aspects of the present invention. For example, computer network 100, of FIG. 1, includes equipment at three sites (e.g. building, geographic areas, or regions separated by distance or physical boundaries). Each site includes a subnetwork, namely, 104, 105 and 106 respectively, coupled by signals that cross site boundaries, (col. 4, lines 5-14 and col. 5, lines 23-41) as step of ***an assessment means which uses the aforementioned records made in a component map to assess whether a change in the state of a component which has taken place or is intended has resulted or would result in a change in the availability of the aforementioned system function.*** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akatsu by including an assessment means which uses the aforementioned records made in a component map to assess whether a change in the state of a component which has taken place or is intended has resulted or would result in a change in the availability of the aforementioned system function as taught by Cassidy. By doing so, the performance of the software as whole can be optimized, (col. 1, lines 18-19).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2172

Jenkins et al. (US 6002868) shows test definition tool.

Perugini et al. (US 5896494) shows diagnostic module dispatcher.

Staats et al. (US 5809331) shows system for retrieving configuration information from node configuration memory identified by key field used as search criterion during retrieval.

**Contact Information**

**7. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam V Nguyen whose telephone number is (703) 305-3735. The examiner can normally be reached on 7:30AM-5:00PM.**


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Yen Vu can be reached on (703) 305-4393. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for formal communications and (703) 746-7240 for informal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, Virginia 22202. Fourth Floor (Receptionist).

**9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.**

TV:tv

06/25/03

  
JEAN M. CORRIELUS  
PRIMARY EXAMINER